



THE SECRETARY OF THE INTERIOR
WASHINGTON

ORDER NO. 3384

Subject: Creation of the Bureau of Trust Funds Administration and Realignment of the Office of the Special Trustee for American Indians, Land Buy-Back Program for Tribal Nations, and Office of Historical Trust Accounting

Sec. 1 Purpose. This Order honors America's trust responsibility to Tribes and individual Indians by creating the Bureau of Trust Funds Administration (BTFA) reporting to the Assistant Secretary – Indian Affairs (AS-IA). The BTFA is intended to institutionalize management reforms and best practices; and strengthen coordination efforts and management efficiencies by consolidating related functions performed by the Office of the Special Trustee for American Indians (OST), Land Buy-Back Program for Tribal Nations (LBBP), and Office of Historical Trust Accounting (OHTA).

Sec. 2 Authorities. This Order is issued in accordance with the authority provided by section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended.

Sec. 3 Background.

a. Office of the Special Trustee for American Indians. The American Indian Trust Fund Management Reform Act of 1994 (1994 Act), P.L. 103-412, established OST, headed by a Special Trustee tasked to oversee reforms relating to trust responsibilities throughout the Department of the Interior (Department). In 1996, the Secretary of the Interior (Secretary) transferred management of Indian trust funds from the Bureau of Indian Affairs (BIA) to OST (Secretary's Order No. 3197 – Establishment of the Office of the Special Trustee for American Indians and Transfer of Trust Fund Management Functions from the Bureau of Indian Affairs, dated February 9, 1996). The combined Congressional and Secretarial actions directly responded to the need for reform of the trust fund management system and clear separation of trust fund management responsibilities from other trust services provided to Indian Country by BIA.

However, section 304(a) of the Indian Trust Asset Reform Act (ITARA), passed in June 2016, required the Secretary to prepare and submit a plan for the transition of OST's functions to other Bureaus/Offices within the Department. The Department intends to realign OST's financial trust asset management functions, which are essential to the proper discharge of the Secretary's trust responsibilities, to AS-IA and place them in BTFA as a new and separate organization.

The prudence of maintaining a clear separation between trust fund management responsibilities and other trust services provided to Indian Country is reflected in the current audits, where there are no deficiencies in the processes or internal controls maintained by OST. The OST's many successes, such as establishment of the Trust Beneficiary Call Center and placement of

regionally located Fiduciary Trust Officers, have greatly benefitted Indian Country. Trust management reforms that have been realized—the higher standard of care and best practices necessary for fulfilling a fiduciary duty—must be institutionalized and made permanent. Accordingly, this Order creates an organizational structure in BTFA that consolidates the core functions primarily executed by OST into a Trust Operations structure and realigns complementary Program Operations to support those core functions separately within BTFA.

b. Land Buy-Back Program for Tribal Nations. Secretary's Order No. 3325 – Land Buy-Back Program for Tribal Nations (SO 3325), dated December 17, 2012, established the Land Buy-Back Program for Tribal Nations, as authorized by the Settlement Agreement in *Maulson v. Bernhardt*, No. 96-CV-1285-JR (as confirmed by the Claims Resolution Act of 2010 (P.L. 111-291)), and provided that LBBP report directly to the Deputy Secretary to ensure implementation of the Maulson (*Cobell*) Settlement's \$1.9 billion Trust Land Consolidation Fund (Fund). As LBBP's funding authority is set to expire in November 2022, it is important that the Department ensure and enhance coordination and collaboration between LBBP and other offices within the Department that provide technical assistance to LBBP. To effectuate this goal, it is necessary to align LBBP into the Indian Affairs structure. Realigning LBBP into BTFA will further strengthen ongoing coordination efforts, as well as present new opportunities to streamline LBBP processes and achieve further efficiencies.

c. Office of Historical Trust Accounting. The OHTA was created by Secretary's Order No. 3231 – Establishment of the Office of Historical Trust Accounting (SO 3231), dated July 10, 2001, to provide historical accountings of Individual Indian Money (IIM) Trust Fund and Tribal Trust Fund accounts in a manner that satisfies the Department's fiduciary duty to account to IIM beneficiaries and Tribes and the distribution of residual balances in Special Deposit Accounts. As an office within the Office of the Secretary, the Executive Director, OHTA, reports directly to the Special Trustee for American Indians, in part because OHTA receives its funding through OST. However, per SO 3231, OHTA is simply established organizationally within the Immediate Office of the Secretary. In order to clarify the reporting structure and ensure the maximum impact for and of OHTA, it is necessary to align OHTA within BTFA.

Sec. 4 Establishment of the Bureau of Trust Funds Administration. The BTFA is hereby established and headed by a Director who reports to AS-IA. The Office of the Director, BTFA shall include such assistants as necessary to ensure the proper fulfillment of the duties of the Director. The BTFA's core functions shall be executed by the Trust Operations activity as outlined below, supported separately by Program Operations Offices. The BTFA's Program Operations Offices shall include: Director, Office of Trust Risk, Evaluation and Compliance; Director, Office of Communication, Policy and Training; Director, Office of Business Management; and a Chief of Staff, all of whom report to the Director, BTFA. The Director, BTFA shall carry out the Bureau's Trust Operations activities with the assistance of a Principal Deputy Bureau Director, Trust Operations; three Deputy Bureau Directors; and an Associate Chief Information Officer who reports to the Principal Deputy Bureau Director, Trust Operations.

- a. Deputy Bureau Director, Trust Operations - Field. The Deputy Bureau Director, Trust Operations - Field will serve as the primary nationwide point of contact and provide outreach for all Tribal and individual Indian trust beneficiaries seeking information and services in conjunction with their trust assets, as well as provide professional in-house management of more than \$5 billion held in trust. These functions will be performed by Regional Trust Directors, the Trust Beneficiary Call Center, and a Director, Office of Trust Fund Investments, all of whom report to the Deputy Bureau Director, Trust Operations - Field.
- b. Deputy Bureau Director, Trust Operations - Accounting. The Deputy Bureau Director, Trust Operations - Accounting (formerly "Trust Services") will be responsible for managing Tribal and IIM trust funds through accurate and timely execution of investment, disbursement, receipt, accounting, and reporting functions. The Accounting Operations activities shall be carried out by a Director, Office of Trust Fund Management and a Director, Office of Trust Reporting and Reconciliation, both of whom report to the Deputy Bureau Director, Trust Operations - Accounting.
- c. Deputy Bureau Director, Trust Operations - Settlement Support. The Deputy Bureau Director, Trust Operations - Settlement Support oversees the Office of Trust Analysis and Research (OTAR) (formerly OHTA), which performs historical accounting of Tribal trust and IIM accounts, including identifying ownership and disseminating residual balances in the Special Deposit Accounts and Youpee Escheat Accounts, as well as LBBP. The Director, LBBP and Director, OTAR shall report to the Deputy Bureau Director, Trust Operations - Settlement Support.
- d. Associate Chief Information Officer, Trust Operations – Information Resources and Trust Records (ACIO-IR). The ACIO-IR will be supported by a Director, Office of Trust Records who will report to ACIO-IR, and will provide organization-wide information resources and support for BTFA in carrying out fiduciary trust responsibilities to Tribal and individual Indian beneficiaries, including management and operation of the American Indian Records Repository (AIRR).

Sec. 5 Office of the Special Trustee for American Indians. This Order shall not be construed to conflict with the provisions of the 1994 Act. The OST, including the Special Trustee and the Principal Deputy Special Trustee, shall continue reporting directly to the Secretary in compliance with the 1994 Act. All employees of OST, except for the Special Trustee and the Principal Deputy Special Trustee, will report to the Director, BTFA as of October 1, 2020.

Sec. 6 Delegation of Authority. Effective October 1, 2020, the Director, BTFA is hereby delegated all program and administrative authority necessary to carry out the responsibilities of BTFA, including the functions of OST; LBBP; and OTAR. This authority may be further delegated.

Sec. 7 Implementation. The Assistant Secretary – Policy, Management and Budget (AS-PMB) and AS-IA are responsible for ensuring implementation of this Order, including the appropriate transfer of personnel, funds, programs, records, and property, as follows:

- a. The AS-IA is responsible for updating applicable Departmental Manual chapters.
- b. Administration of any existing agreements, or portions thereof, with Indian Tribes pursuant to the Indian Self-Determination and Educational Assistant Act (ISDEAA), 25 U.S.C. 5301, *et seq.*, pertaining to any trust management functions currently performed by OST or a sub-office currently within OST will remain intact.
- c. The actions set forth in this Order reflect organizational changes outlined in the Department's Budget Justification and Performance Information, Fiscal Year 2021 (Greenbook), Bureau of Trust Funds Administration. Within thirty days of the date of this Order, AS-IA and the Principal Deputy Special Trustee shall submit a plan for the Secretary's approval to enable operation of BTFA to become effective October 1, 2020. Understanding the uncertainty involved in aligning Congress's passage of a Fiscal Year 2021 budget and organizational changes set forth in this Order, AS-IA and AS-PMB shall ensure reprogramming compliance to enable BTFA's effective date of October 1, 2020.

Sec. 8 Expiration Date. This Order will become effective immediately, with BTFA becoming operational on October 1, 2020. This Order will remain in effect until its provisions are converted to the Departmental Manual or until it is amended, superseded, or revoked, whichever occurs first. In the absence of any of the foregoing actions, the provisions of the Order will terminate and be considered obsolete on September 30, 2021. The termination of this Order will not affect the organizational changes effected herein.



Secretary of the Interior

Date: **AUG 31 2020**